

COUNTY OF SUFFOLK



STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

CHRISTINE MALAFI
COUNTY ATTORNEY

DEPARTMENT OF LAW
ADDRESS ALL COMMUNICATIONS
IN THIS MATTER TO:

December 13, 2010

Magistrate Judge Arlene R. Lindsay
United States District Court
Alphonse M. D'Amato Courthouse
100 Federal Plaza
Central Islip, New York 11722-4438

Re: Toussie, et al. v. County of Suffolk, et al.
CV-01-6716 (JS) (ARL)

Dear Magistrate Judge Lindsay:

A Pre-Trial Order has been filed by the plaintiff and submitted to this Court for its approval. It has not been signed or consented to by the undersigned and Mr. Borovina (counsel for co-defendant Paul Sabatino). Defendants object to plaintiffs' inclusion of addendums "A & B" to the Pre-Trial Order.

The submitted Pre-Trial Order contains two addendums ("A" & "B"), which jointly contain forty two (42) pages of proposed plaintiff's stipulations on the facts and laws of this case. These proposals were first submitted for the undersigned's review on December 9, 2010. Such lengthy proposals could not possibly be reviewed and agreed upon within the time provided. However, this counsel had advised plaintiffs both when we started to do this Pre-Trial Order and again last week that we would not be able to agree to such at this time, but we would further discuss and review while waiting for a trial date. Additionally, we do intend to file a summary judgment, which will probably enlarge the time of the actual trial.

More importantly, the filing of "proposed" stipulations of fact and law as opposed to actual stipulations, is not contained with Judge Seybert's rules for Pre-Trial Orders. As a result, this filing is not in compliance with the Court rules. As a result, neither the undersigned nor Mr. Borovina would sign this Pre-Trial Order.

Finally, despite our objections, plaintiffs did not communicate with defendants' counsel as to their final decision as to whether or how they were going to utilize their "proposals" in this Pre-Trial Order, before the end of the business day of December 10, 2010.

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At this point, defendants' counsel object solely to the inclusion of addendums "A & B" in this Pre-Trial Order.

Respectfully submitted,

Christine Malafi
Suffolk County Attorney

Chris P. Termini

Chris P. Termini
Assistant County Attorney